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Attorneys for Plaintiffs
SPRINT SPECTRUM L.P., a Delaware limited partnership;
SPRINT SPECTRUM REALTY COMPANY, L.P., a Delaware
limited partnership

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SPRINT SPECTRUM L.P., a Delaware
limited partnership; SPRINT SPECTRUM
REALTY COMPANY, L.P., a Delaware
limited partnership,

Plaintiffs,

vs.

COUNTY OF SAN MATEO; BOARD OF
SUPERVISORS FOR THE COUNTY OF
SAN MATEO, its governing body; MARK
CHURCH, in his official capacity as Board
Member of the Board of Supervisors for
the County of San Mateo; JERRY HILL, in
his official capacity as Board Member of
the Board of Supervisors for the County of
San Mateo; RICH GORDON, in his
official capacity as Board Member of the
Board of Supervisors for the of the County
of San Mateo; ROSE GIBSON, in her
official capacity as Board Member of the
Board of Supervisors for the County of San
Mateo; ADRIENNE TISSIER, in her
official capacity as Board Member of the
Board of Supervisors for the County of San
Mateo; and DOES 1-10, inclusive.

Defendants.

Case No. C 08-00342 CW

Hon. Claudia Wilken
Courtroom 2

**NOTICE OF FILING FIRST
AMENDED COMPLAINT MOOTING
DEFENDANTS' PENDING MOTION
TO DISMISS**

On March 13, 2008, defendants filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). On May 29, 2008, plaintiffs Sprint Spectrum L.P. and Sprint Spectrum Realty Company, L.P. (collectively “Sprint”) filed their First Amended Complaint: a motion to dismiss is not a “responsive pleading” (*see Allwaste, Inc. v. Hecht*, 65 F.3d 1523, 1530 (9th Cir. 1995)), and “[a] party may amend its pleading once as a matter of course . . . before being served with a responsive pleading.” Fed. R. Civ. Proc. 15(a)(1). Because an amended complaint supersedes a prior complaint as a pleading (*see Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); *Hal Roach Studios, Inc. v. Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990)), by filing the First Amended Complaint Sprint effectively mooted the defendants’ pending motion to dismiss. *See e.g., Setencich v. Am. Red Cross*, No. C 07-3688, 2007 U.S. Dist. LEXIS 91068, *5-7 (N.D. Cal. 2007) (denying a motion to dismiss as moot because the plaintiff filed an amended complaint pursuant to Federal Rule of Civil Procedure 15(a)(1)); *Collins v. Winex Invs., LLC*, No. 08cv51, 2008 U.S. Dist. LEXIS 28286 (S.D. Cal. 2008) (same); *Hunt v. San Diego*, No. 07cv00355, 2007 U.S. Dist. LEXIS 60167 (S.D. Cal. 2007) (same). Accordingly, for the reasons stated above, defendants’ pending motion to dismiss should be deemed moot.

Dated: May 29, 2008

JOHN J. FLYNN III
NOSSAMAN, GUTHNER, KNOX & ELLIOTT,
LLP

By: /s/ _____
John J. Flynn III

Attorneys for Plaintiff
SPRINT SPECTRUM L.P., a Delaware limited
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COMPANY, L.P., a Delaware limited partnership